

The Consumer Financial Protection Bureau (“CFPB”) recently filed its first civil action. The agency, formed by the Dodd-Frank Act with the mission of regulating the consumer finance industry, sued and effectively stopped a Los Angeles firm that was charging homeowners for loan modifications that never happened. The CFPB charged that a Los Angeles law firm and two subsidiary companies were preying on financially distressed borrowers by promising to reduce their monthly mortgage payments in exchange for fees of \$2,500–\$4,500. According to the suit, filed on July 18, 2012, the law firm provided “little, if any, meaningful assistance to modify homeowners’ mortgage loans or prevent a foreclosure.” The U.S. District Court for the Central District of California granted CFPB’s request for a temporary restraining order against the law firm from engaging in further business.

The CFPB suit is the most recent example of regulators’ attempts to rein in scam artists in the “debt-modification” business. The Federal Trade Commission recently banned mortgage assistance relief companies, whether mortgage brokers, lead generators, or affiliated marketing companies, from collecting “advanced fees” from homeowners for debt-relief services. Regulators have observed that some firms are attempting to skirt the advance fee ban by charging customers “retainer fees” up front for mortgage modification services.

In North Carolina, it is illegal for a company to collect an up-front fee for acting as an intermediary between a debtor and his or her lender or other creditor. Companies that engage in this unlawful practice of “debt adjusting” often advertise themselves as assisting with “debt relief,” “foreclosure assistance,” or “foreclosure consulting.” Borrowers and consumers should be leery of individuals and companies offering foreclosure help, debt modification, and foreclosure assistance deals that sound too good to be true. Unfortunately, that is probably the case and the deal offered is likely a scam designed to take some significant portion of an individual or family’s remaining funds.